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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

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GARY PIERCE - Chairman

APR -6 2011

BOB STUMP

SANDRA D. KENNEDY

PAUL NEWMAN

BRENDA BURNS

DOCKETED BY

AZ CORP COMMISSION
DOCKET CONTROL

IN THE MATTER OF THE APPLICATION OF
THE ARIZONA DEPARTMENT OF
TRANSPORTATION TO BOTH CONSTRUCT A
NEW GRADE SEPARATED CROSSING AT
PRINCE ROAD AND TO REMOVE THE
EXISTING AT-GRADE CROSSING AT PRINCE
ROAD OF THE UNION PACIFIC RAILROAD IN
THE CITY OF TUCSON, PIMA COUNTY,
ARIZONA.

DOCKET NO. RR-03639A-11-0093

PROCEDURAL ORDER
(Schedules Hearing)

BY THE COMMISSION:

On February 28, 2011, the Arizona Department of Transportation ("ADOT") filed with the Arizona Corporation Commission ("Commission") an application for approval for ADOT to both construct a grade separated crossing at Prince Road in the City of Tucson ("City"), Pima County, Arizona, at USDOT No. 412-487-J, and to remove the existing at-grade crossing at Prince Road of the Union Pacific Railroad ("Railroad") at USDOT No. 741-105-J ("Application").

Pursuant to A.A.C. R14-3-101, the Commission now issues this Procedural Order to govern the preparation and conduct of this proceeding.

IT IS THEREFORE ORDERED that the request of ADOT shall be considered an application for the Railroad to both construct a new grade separated crossing and to remove the existing at-grade crossing pursuant to A.R.S. § 40-337, *et seq.*

IT IS FURTHER ORDERED that the Railroad shall be considered as the Respondent in this proceeding.

IT IS FURTHER ORDERED that the **hearing** on the application shall be held on **July 6, 2011, at 10:00 a.m.**, or as soon thereafter as is practical, at the Commission's offices, 1200 West Washington Street, Hearing Room No. 1, Phoenix, Arizona.

IT IS FURTHER ORDERED that within five business days of receipt of this Procedural

1 Order, **the ARIZONA DEPARTMENT OF TRANSPORTATION SHALL PROVIDE THE**
2 **RAILROAD AND ANY MUNICIPALITY OR INTERESTED PARTY** that may be affected by
3 the application with a copy of the Application and this Procedural Order by certified mail.

4 IT IS FURTHER ORDERED that the Commission's Railroad Safety Section ("Staff") shall
5 prepare a written **Staff Report and associated exhibits** to be presented at hearing and file copies of
6 them with Docket Control on or before 4:00 p.m. on **June 3, 2011**.

7 IT IS FURTHER ORDERED that any **objections to the Staff Report and associated**
8 **exhibits** which was previously filed shall be reduced to writing and filed with Docket Control on or
9 before 4:00 p.m. on **June 14, 2011**.

10 IT IS FURTHER ORDERED that **intervention** shall be in accordance with A.A.C.
11 R14-3-105, except that all motions to intervene must be filed on or before **May 31, 2011**.

12 IT IS FURTHER ORDERED that **the Arizona Department of Transportation** shall provide
13 **public notice** of the hearing in this matter, in the following form and style:

14 **IN THE MATTER OF THE APPLICATION OF THE ARIZONA DEPARTMENT**
15 **OF TRANSPORTATION TO BOTH CONSTRUCT A NEW GRADE SEPARATED**
16 **CROSSING AT PRINCE ROAD AND TO REMOVE THE EXISTING AT-GRADE**
17 **CROSSING AT PRINCE ROAD OF THE UNION PACIFIC RAILROAD IN THE**
CITY OF TUCSON, PIMA COUNTY, ARIZONA.
(DOCKET NO. RR-03639A-11-0093)

18 On February 28, 2011, the Arizona Department of Transportation ("ADOT") filed
19 with the Arizona Corporation Commission ("Commission") an Application for
20 approval for ADOT to both construct a grade separated crossing at Prince Road in the
21 City of Tucson ("City"), Pima County, Arizona, at USDOT No. 412-487-J, and to
remove the existing at-grade crossing at Prince Road of the Union Pacific Railroad
("Railroad") at USDOT No. 741-105-J ("Application").

22 The Application is available for inspection during regular business hours at the
23 offices of the Commission in Phoenix, at 1200 West Washington Street, Phoenix,
Arizona, and on the internet via the Commission website (www.azcc.gov) using the
e-docket function.

24 The Commission will hold a hearing on this matter commencing on **July 6, 2011, at**
25 **10:00 a.m.**, at the Commission's offices, 1200 West Washington Street, Phoenix,
Arizona. Public comments will be taken on the first day of the hearing.

26 The law provides for an open public hearing at which, under appropriate
27 circumstances, interested parties may intervene. Intervention shall be permitted to
28 any person entitled by law to intervene and having a direct and substantial interest in
the matter. Persons desiring to intervene must file a written motion to intervene with

the Commission, which motion should be sent to Applicant or its counsel and to all parties of record, and which, at the minimum, shall contain the following:

1. The name, address, and telephone number of the proposed intervenor and of any party upon whom service of documents is to be made if different than the intervenor.
2. A short statement of the proposed intervenor's interest in the proceeding (e.g., a customer of Railroad, a neighboring property owner, a crossing user, etc.).
3. A statement certifying that a copy of the motion to intervene has been mailed to the Applicant or its counsel and to all parties of record in the case.

The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except that all motions to intervene must be filed on or before May 31, 2011. The granting of intervention, among other things, entitles a party to present sworn evidence at hearing and to cross-examine other witnesses. However, failure to intervene will not preclude any customer from appearing at the hearing and making a statement on such customer's own behalf.

If you have any questions about this Application, you may contact the applicant at **[insert telephone number]**. If you wish to file written comments on the Application or want further information on intervention, you may write the Consumer Services Section of the Commission at 1200 West Washington Street, Phoenix, Arizona 85007, call 602-542-4251 or 1-800-222-7000, or appear at the hearing and make comment.

The Commission does not discriminate on the basis of disability in admission to its public meetings. Persons with a disability may request a reasonable accommodation such as a sign language interpreter, as well as request this document in an alternative format, by contacting Shaylin Bernal, ADA Coordinator, voice phone number 602-542-3931, e-mail SABernal@azcc.gov. Requests should be made as early as possible to allow time to arrange the accommodation.

IT IS FURTHER ORDERED that **the Arizona Department of Transportation** shall cause the above notice to be published at least once in a newspaper of general circulation in the city/county where the crossing is located, with **publication to be completed no later than May 6, 2011**.

IT IS FURTHER ORDERED that notice shall be deemed complete upon the mailing/publication of same, notwithstanding the failure of an individual or entity to read or receive the notice.

IT IS FURTHER ORDERED that **the ARIZONA DEPARTMENT OF TRANSPORTATION SHALL FILE CERTIFICATION OF NOTICE WITH THE COMMISSION'S DOCKET CONTROL AS SOON AS PRACTICABLE** after the mailing/publication of notice ordered herein has been completed.

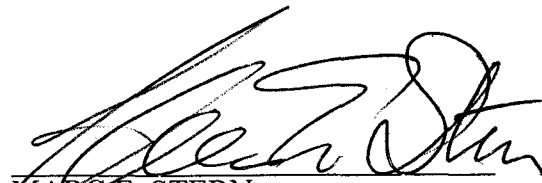
IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized

Communications) applies to this proceeding as the matter is now set for public hearing

IT IS FURTHER ORDERED that all parties must comply with Rule 31 and 38 of the Rules of the Arizona Supreme Court and A.R.S. § 40-243 with respect to practice of law and admission *pro hac vice*.

IT IS FURTHER ORDERED that the presiding Administrative Law Judge may rescind, alter, amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

DATED this 6TH day of April, 2011.


MARC E. STERN
ADMINISTRATIVE LAW JUDGE

Copies of the foregoing mailed/delivered this 6TH day of April 2011 to:

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Phoenix, AZ 85004

By: 
Debra Broyles
Secretary to Marc Stern